

87<sup>th</sup> Legislative Session – 2012

Committee: Senate State Affairs

Wednesday, February 22, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Adelstein  
P Cutler  
P Frerichs  
P Gray  
P Johnston  
P Rave  
P Tieszen  
P Olson (Russell), Vice-Chair  
P Rhoden, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Larry Rhoden, Chair.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 15, 2012

Moved by: Gray  
Second by: Adelstein  
Action: Prevailed by voice vote.

HB 1196: revise certain provisions concerning lobbyists.

Presented by: Representative Tona Rozum  
Proponents: Jason Gant, Office of the Secretary of State  
Jeremiah M. Murphy, Self, Rapid City

MOTION: AMEND HB 1196

1196oa

On page 1, line 7, of the printed bill, delete "or" and insert "of".

Moved by: Rave  
Second by: Cutler  
Action: Prevailed by voice vote.

**MOTION:** DO PASS HB 1196 AS AMENDED

Moved by: Cutler  
Second by: Rave  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Cutler, Frerichs, Gray, Johnston, Rave, Tieszen, Rhoden

Excused: Olson (Russell)

**MOTION:** PLACE HB 1196 ON CONSENT CALENDAR

Moved by: Gray  
Second by: Tieszen  
Action: Prevailed by voice vote.

HB 1182: revise the filing deadlines for the nomination of certain independent candidates.

Presented by: Representative Mark Kirkeby  
Proponents: Jason Gant, Office of the Secretary of State

**MOTION:** DO PASS HB 1182

Moved by: Rave  
Second by: Cutler  
Action: Prevailed by roll call vote. (6-1-2-0)

Voting Yes: Adelstein, Cutler, Gray, Rave, Tieszen, Rhoden

Voting No: Frerichs

Excused: Johnston, Olson (Russell)

HB 1138: declare that any person who maintains or provides roll-your-own cigarette

machines at retail establishments are cigarette manufacturers.

Presented by: Senator Mike Vehle (Handouts: 1, 2, 3)

Proponents: Dawna Leitzke, SD Petroleum and Propane Marketers Association  
Bob Burke, Chamberlain, Self  
Shawn Lyons, SD Retailers Association  
Don Livesay, Self, Rapid City (Handout: 4)  
Charlie McGuigan, Office of Attorney General  
Jason Evans, Department of Revenue

Opponents: Larry Mann, RYO Machine, Rapid City  
Ashley Taylor, RYO Machine, Cincinnati, Oh  
Kay Davis, Self, Sioux Falls  
Dave Backlund, Mitchell, Self

MOTION: AMEND HB 1138

1138oc

On page 1, line 10, of the House State Affairs Committee engrossed bill, delete "chapters" and insert "chapter".

Moved by: Rave  
Second by: Gray  
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1138 AS AMENDED

Moved by: Cutler  
Second by: Rave  
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION AMEND HB 1138

1138ta

On the House State Affairs Committee engrossed bill, delete everything after the enacting clause and insert:

" Section 1. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

Any retailer who offers a machine that enables a person to process, on the retailer's premises, a product that is made or derived from tobacco into a cigarette tube shall:

- (1) Establish an escrow account as if it were establishing a qualified escrow fund as defined by subdivision 10-50B-3(5) for any pipe tobacco the retailer sells in conjunction with the use of the retailer's in-store machines. The retailer is responsible for making the payments set forth in § 10-50B-7, as if it were the manufacturer of roll-your-own tobacco;
- (2) Provide the Office of the Attorney General with a quarterly statement as to the number of ounces of pipe tobacco sold in conjunction to the use of the retailer's machines by retail tobacco customers; the total amount deposited into the escrow fund; and the name of the financial institution where the escrow fund is maintained; and
- (3) Allow the attorney general to inspect or copy or both any business record relating to the number cigarettes produced in the in-store machines, any business record relating to the sale of all roll-your-own tobacco and pipe tobacco and any bank statement from the qualified escrow fund.

Section 2. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

The assessment payment obligation set forth in section 1 of this Act may be transferred by the retailer to the manufacturer of the machine described in section 1 of this Act by a written agreement signed by the retailer and the manufacturer of the machine, and approved by the Department of Revenue.

Section 3. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding the provisions of section 1 of this Act, no retailer may offer a machine described in section 1 of this Act unless the machine is constructed and maintained to allow the manufacturer thereof to maintain an electronic count of the number of cigarette tubes used in the machine. In order to verify the payment of the assessment imposed in section 1 of this Act, the retailer shall report to the Department of Revenue, between the first and twentieth of each month, inclusive, the total number of tubes used in each machine during the preceding month. All invoices, books, papers, cancelled checks or other memoranda or records reflecting usage of such machines shall be subject to audit and inspection by any duly authorized representative of the Department of Revenue at all times.

Section 4. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

The product produced by any machine described in section 1 of Act shall comply with the provisions of chapter 34-29 by July 1, 2014."

Moved by: Frerichs  
Second by: Tieszen  
Action: Failed by voice vote.

THE ORIGINAL MOTION TO DO PASS HB 1138 AS AMENDED

Moved by: Cutler  
Second by: Rave  
Action: PREVAILED BY ROLL CALL VOTE. (6-2-1-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Rave, Tieszen

Voting No: Frerichs, Rhoden

Excused: Olson (Russell)

MOTION: ADJOURN

Moved by: Cutler  
Second by: Gray  
Action: Prevailed by voice vote.

Kay Johnson  
Committee Secretary

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Larry Rhoden, Chair